

Checkpoint Contents

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Federal Tax Coordinator 2d

Chapter A Individuals and Self-Employment Tax

A-3600 Deduction for Dependents.

A-3605.3 Relationship test for qualifying child.

## **Federal Tax Coordinator 2d**

### **¶A-3605.3. Relationship test for qualifying child.**

The following relationships of an individual to the taxpayer meet requirement (1) at ¶ A-3605.2 , in the definition of a "qualifying child":<sup>21</sup>

... a child (defined below) of the taxpayer or a descendant of such a child<sup>22</sup> or  
... a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.<sup>23</sup> The terms "brother" and "sister" include a brother or sister by the half blood.<sup>24</sup>

 **RIA observation:** Thus, a taxpayer's "qualifying child" doesn't have to be a child of the taxpayer. The term also includes the taxpayer's sibling, nephew, or niece. For how families can take advantage of this broad definition where the dependency exemption and related tax breaks would have no value to the high-income parents but would be of value to one of the children, see ¶ A-3605.5 .

<sup>21</sup>

Code Sec. 152(c)(2) .

<sup>22</sup>

Code Sec. 152(c)(2)(A) .

<sup>23</sup>

Code Sec. 152(c)(2)(B) .

<sup>24</sup>

Code Sec. 152(f)(4) .

For purposes of the definition of a dependent,<sup>25</sup> the term "child" means an individual who is:<sup>26</sup>

... a son, daughter, stepson, or stepdaughter of the taxpayer,<sup>27</sup> or  
... an eligible foster child of the taxpayer<sup>28</sup> (see ¶ A-3613 ).

<sup>25</sup>

Code Sec. 152(f) .

<sup>26</sup>

Code Sec. 152(f)(1)(A) .

<sup>27</sup>

Code Sec. 152(f)(1)(A)(i) .

<sup>28</sup>

Code Sec. 152(f)(1)(A)(i) .

Thus, in order to be a qualifying child, the child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. An eligible foster child is treated as the taxpayer's child.<sup>29</sup>

 **RIA observation:** If a child of the taxpayer doesn't meet the definition of a "qualifying child," for example because the child doesn't meet the age test, he or she may still qualify as a dependent under the "qualifying relative" test, see ¶ A-3605.6 .

<sup>29</sup>

Conf Rept No. 108-696 (PL 108-311) p. 61 .

The pre-2005 requirement that, if a child is the taxpayer's sibling or stepsibling or a descendant of any such individual, the taxpayer had to care for the child as if the child were his or her own child, doesn't apply.<sup>30</sup>

<sup>30</sup>

Conf Rept No. 108-696 (PL 108-311) p. 61 .

For adopted children, see ¶ A-3612 .

*For tax years beginning before Jan. 1, 2005,*<sup>31</sup> the above rules didn't apply.

Sec. 208, PL 108-311, 10/4/2004 .

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